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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,265	06/27/2003	Masahiro Nambu	KIN86USA	8115

270 7590 10/12/2005

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EXAMINER
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KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/609,265

Applicant(s)

NAMBU, MASAHIRO

Examiner

Ramesh Krishnamurthy

Art Unit

3753

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

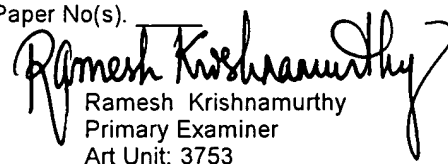
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 4 and 5.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Attachment.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
13. ☐ Other: \_\_\_\_\_.

  
Ramesh Krishnamurthy  
Primary Examiner  
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### **Attachment to Advisory Action**

The rejection of claims 4 and 5 that remain the only pending claims are as set forth in the Final Office action mailed 07/26/05.

The argument of the applicant that the detailed office action of 07/26/05 did not contain reasons for rejecting claims 4 and 5 as originally presented is not persuasive. The reference to claims 1 – 3 in the previous office action mailed 07/26/05 was a typographical error and it should have referred to claims 1 – 5 as set forth in the office action summary. Specifically, examiner had addressed the additional limitations in claims 4 and 5 in the paragraph immediately before the section entitled “Response to Arguments”. This paragraph is also included below and has been highlighted in italics.

#### **Claims 4 – 5 are pending.**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4 – 5 are rejected under 35 U.S.C. 102(b) as being anticipated by McMillin et al. (US 6,333,272).

McMillin et al. discloses (see for example, Fig. 3) a system for dividing gas flow, wherein gas a primary flow path (from (28)) is divided into a plurality of secondary flow paths (12, 14) connected to inlets of a single processing chamber (10), one of said secondary flow paths (either 12 or 14) being fully opened and the flow rate of gas in each of said secondary flow paths being related to the flow rate of gas in each other one of said

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secondary flow paths by a predetermined ratio, the system comprising: plurality of mass flow controllers ((42,44) and (34,36)), there being one said mass flow controllers arranged to control flow in each said secondary flow path; and a common controller (40) connected to all of said mass flow controllers; and a sensor (42 or 34) arranged to measure the flow rate of gas in said fully opened secondary flow path, said sensor being connected to said common controller, and providing to said common controller a feedback-signal representing the flow rate of gas in said fully opened secondary flow path; the ratio of the flow rate of in each other one of said secondary flow paths relative the flow rate of in said fully opened secondary flow path being set at a value of 1 less, and said common controller being responsive to said feedback signal and delivering, to the mass flow controller in each other one of said secondary flow paths, a set signal for controlling the flow therein, said set signal being dependent on said feedback signal and being obtained by multiplying the measured flow rate in said fully opened secondary flow path by the predetermined ratio for the flow rates in said fully opened secondary flow path and said other one of said secondary flow paths (Col. 5, line 65 – Col. 6, line 46). The Mass flow controllers in McMillin et al. are taken here to include all known MFCs including the well-known pressure sensing type.

***It is noted that the separate flow set point signals sent to each mass flow controller is derived from the user specified set point which here is taken to be equivalent to pre-determined constant ratio. Also, McMillin et al. discloses at Col. 4, lines 15 – 20, that it is known to employ multiple delivery to multiple zones of the chamber. Thus use of more than two delivery lines to the process chamber is***

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***inherent to the system disclosed in McMillin et al. and the specific split ratio amongst the secondary flow paths is controlled based on the user specified set points with the configuration recited in claim 5 representing a particular choice of set points.***